

Kent Krause

From: Matt H. Cline <matt@gideoncooper.com>
Sent: Tuesday, May 10, 2016 6:37 PM
To: pwehmeier@adhknox.com; beng@bsjfirm.com
Cc: Kent Krause; Parks Chastain; Chris J. Tardio; Ginger F. Ward; C. J. Gideon
Subject: SSC Computers

Importance: High

Paul and Ben:

Based on Kent's conversation with Paul yesterday, it appears likely there is information covered by SSC's attorney client privilege on the computers in possession of Cumberland Medical Center. To the extent any privileged information is on the hard drives, any "disclosure" by SSC was obviously inadvertent, and that information should not be produced. Furthermore, to the extent there is quality improvement information on the hard drives, the quality improvement privilege and/or peer review privilege cannot be waived, and we reserve those privileges. Powell v. Community Health Systems, Inc., 312 S.W. 3d 496 (Tenn. 2010).

We propose that: (1) we review any data returned by the search terms before it is produced to the PSC, OR (2) we use exclusion criteria that will eliminate (i) communications to or from Gideon Cooper (our office) and (ii) documents prepared by Gideon Cooper, with a clawback provision permitting us to assert privilege over any privileged information that is not captured by these exclusion criteria.

Relatedly, please let us know if you oppose a ten-day extension to our response deadline (pursuant to MDL Order No. 11) for responding to your motion for protective order regarding these computers.

Paul – We will be in touch separately to discuss how to handle any privileged information on the hard drives that is not implicated by the PSC's subpoena.

Please contact Kent or myself with any questions you may have.

Thanks.

Matt

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